

Message Text

SECRET

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12

ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
----- 047557

O R 252045Z FEB 75

FM AMEMBASSY QUITO

TO SECSTATE WASHDC IMMEDIATE 4587

INFO AMEMBASSY LIMA

AMEMBASSY MEXICO

AMEMBASSY SANTIAGO

USUN NEW YORK 394Q

S E C R E T SECTION 1 OF 2 QUITO 1344

STADIS////////////////////////////////////

EXDIS

FOR DEPUTY SECRETARY INGERSOLL AND UNDERSECRETARY MAW
FROM JOHN NORTON MORE AND TOM CLINGAN

USUN FOR AMBASSADOR STEVENSON

DEPT. PLEASE PASS ARA ROGERS, D/LOS ESKIN, OES/OFA SULLIVAN,
DOD/ISA FRENCH AND OJCS MORRIS

E.O. 11652: GDS

TAGS: PLOS EFIS PFOR EC

SUBJECT: US-ECUADOREAN DISCUSSIONS ON LOS AND THE TUNA DISPUTE

1. JOHN NORTON MOORE, TOM CLINGAN, AMBASSADOR BREWSTER, AND
JOHN NEGROPONTE MET WITH SUBSECRETARY VALDEZ AND DR. JOSE
AYALA, DIRECTOR GENERAL OF THE DEPARTMENT OF NATIONAL SOVER-
EIGNTY, ON TUESDAY MORNING FEBRUARY 25, TO DISCUSS TUNA DIS-
PUTE AND TO PRESENT U.S. PROPOSAL AS FIRST STEP IN RESOLVING
DISPUTE. MOORE INDICATED U.S. DELEGATION HERE TO DISCUSS
WAYS TO RESOLVE DISPUTE IN INTEREST OF BOTH ECUADOR AND U.S.
WHILE MAKING CLEAR THAT WE WERE INTERESTED IN DISCUSSING ANY
POSSIBILITIES WHICH ECUADOREANS FELT PROMISING, MOORE PRESENTED
SPECIFIC PROPOSAL WHICH SEEMED ONE PROMISING APPROACH. PRO-

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POSAL WAS THAT AS FIRST STEP IN RESOLVING DISPUTE TWO SIDES

WOULD AGREE AT EARLY TIME ON ARTICLE FOR CONSERVATION OF TUNA WHICH WE COULD AGREE TO MUTUALLY SUPPORT IN LOS NEGOTIATIONS. IF OVERALL TREATY MET U.S. INTERESTS, WE WOULD EXPECT TO BECOME PARTY TO TREATY. IF ECUADOR ALSO BECAME PARTY THE TUNA ISSUE WOULD BE RESOLVED. IF ECUADOR COULD NOT BECOME PARTY, U.S. WOULD NEVERTHELESS BE WILLING TO ENTER BILATERAL OR MULTILATERAL AGREEMENT WITH ECUADOR OR STATES IN REGION WITH RESPECT TO AGREED CONSERVATION ARTICLE PROVIDED AGREED ARTICLE WAS INCLUDED IN LOS TREATY AND TREATY MET OVERALL CONCERNS U.S. HAD EXPRESSED IN LOS CONFERENCE. MOORE ALSO POINTED OUT THAT EARLY AGREEMENT ON TUNA CONSERVATION ARTICLE WHICH WE WOULD MUTUALLY SUPPORT IN LOS NEGOTIATIONS COULD MAKE IT EASIER TO WORK OUT ARRANGEMENTS FOR PERIOD BEFORE TREATY CAME INTO FORCE OR WAS APPLIED ON PROVISIONAL BASIS, FOR EXAMPLE, INDUSTRY MIGHT BE MORE RELAXED ON ASSOCIATION AGREEMENTS IF THEY SAW MUTUALLY SATISFACTORY BASIS FOR LONG RUN SOLUTION OF DISPUTE. MOORE THEN PRESENTED SPECIFIC PROPOSED ARTICLE WITH PARAGRAPH BY PARAGRAPH EXPLANATION. FULL TEXT OF PROPOSED ARTICLE CONTAINED PARAGRAPH 2. VALDEZ REACTED FAVORABLY MAKING POINTS THAT HE FOUND PROPOSAL "VERY INTERESTING", THAT IT WAS "CLEARLY A NEW APPROACH BY THE U.S.", THAT IT "CONTAINED MANY POINTS FOR WHICH HE HAD GREAT SYMPATHY", THAT "IT PROVIDED A SOUND BASIS FOR WORK", AND THAT HIS GENERAL OVERALL REACTION WAS 'POSITIVE'." IT WAS AGREED THAT ECUADOREAN SIDE WOULD STUDY U.S. PROPOSAL ON TUESDAY AFTERNOON (FEBRUARY 25) AND THAT TWO SIDES WOULD SCHEDULE WORKING SESSIONS ON DRAFT WEDNESDAY (FEBRUARY 26) MORNING AND AFTERNOON. ONLY SPECIFIC PROBLEM VALDEZ INDICATED WAS USE OF TERM "SOVEREIGN RIGHTS" RATHER THAN "SOVEREIGNTY" IN ARTICLES 1 AND 5 OF PROPOSAL.

2. TEXT OF DRAFT PROPOSAL FOLLOWS: DRAFT BASED ON ECUADOREAN LAW, RECOMMENDATION OF MINISTER JENS EVENSEN (NORWAY) IN LAST WEEK'S MEETINGS OF THE EVENSEN GROUP IN NEW YORK AND U.S. ARTICLE ON TUNA CONTAINED IN L 47:

BEGIN TEXT:

ARTICLE DEALING WITH CONSERVATION OF TUNA AND CERTAIN OTHER SPECIES TO BE ADOPTED AS PART OF A SATISFACTORY COMPREHENSIVE LAW OF THE SEA TREATY

1) THE COASTAL STATE SHALL, IN THE EXERCISE OF ITS SOVEREIGN RIGHTS WITH RESPECT TO THE LIVING RESOURCES WITHIN (200 MILES

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FROM THE BASELINES FROM WHICH THE TERRITORIAL SEA IS MEASURED) REGULATE FISHING FOR TUNA AND CERTAIN OTHER SPECIES LISTED IN ANNEX A. BEYOND (200 MILES) FISHING FOR SUCH SPECIES SHALL BE REGULATED BY THE STATE OF NATIONALITY OF THE VESSEL.

2) FOR PURPOSES OF RESEARCH, CONSERVATION AND PROTECTION OF SPECIES LISTED IN ANNEX A, COASTAL STATES IN THE REGION AND OTHER STATES WHOSE FLAG VESSELS HARVEST SUCH SPECIES IN THE

REGION SHALL COOPERATE IN ESTABLISHING AN APPROPRIATE
INTERNATIONAL FISHING ORGANIZATION.

3) STATES ACTING THROUGH THE ORGANIZATION ESTABLISHED PURSUANT
TO PARAGRAPH 2 SHALL, ON THE BASIS OF THE BEST SCIENTIFIC
EVIDENCE AVAILABLE, AGREE ON ALLOWABLE CATCH AND OTHER CONSERVA-
TION MEASURES WITHIN THE REGION FOR SPECIES LISTED IN ANNEX A.
THEY SHALL ALSO AGREE, THROUGH THE ORGANIZATION, ON REASON-
ABLE UNIFORM LICENSE AND OTHER FEES APPLICABLE THROUGHOUT THE
REGION FOR FISH OF SUCH SPECIES CAUGHT WITHIN (200 MILES) BY
FOREIGN FLAG VESSELS, ON RULES FOR THE COLLECTION AND PAYMENT
OF SUCH FEES TO THE COASTAL STATES. AND ON ALLOCATION REGULATIONS.
ALLOCATION REGULATIONS SHALL BE DESIGNED TO ENSURE FULL
UTILIZATION AND EQUITABLE SHARING AND TO MINIMIZE ADVERSE ECONO-
MIC CONSEQUENCES. SUCH ALLOCATION REGULATIONS SHALL ALSO RECOG-
NIZE THE COASTAL STATE INTEREST IN AN APPROPRIATE PREFERENCE FOR
ARTISAN FISHING AND VESSELS FISHING SOLELY WITHIN (40 MILES).

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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O R 252045Z FEB 75
FM AMEMBASSY QUITO
TO SECSTATE WASHDC IMMEDIATE 4588
INFO AMEMBASSY LIMA
AMEMBASSY MEXICO CITY
AMEMBASSY SANTIAGO
USMISSION USUN NEW YORK

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4) THE COASTAL STATE MAY PROVIDE FOR ASSOCIATION CONTRACTS OR
OTHER LEGAL ARRANGMENTS WITH FOREIGN FLAG VESSELS IN LIEU OF
AGREED LICENSE OR OTHER FEES PAYABLE TO THE COASTAL STATE FOR
FISH CAUGHT WITHIN (200 MILES).

5) THE COASTAL STATE MAY, IN THE EXERCISE OF ITS SOVEREIGN RIGHTS WITH RESPECT TO THE LIVING RESOURCES WITHIN (200 MILES), TAKE SUCH ENFORCEMENT MEASURES, INCLUDING INSPECTION, ARREST AND TRIAL, AS MAY BE NECESSARY TO ENSURE COMPLIANCE WITH ITS LAW AND REGULATION. SUCH MEASURES SHALL BE NON-DISCRIMINATORY, SHALL PROVIDE FOR PROMPT RELEASE OF VESSELS ON ESTABLISHMENT OF REASONABLE BOND AS SECURITY FOR THE OUTCOME OF THE TRIAL, AND SHALL NOT PROVIDE FOR PROSECUTION OR IMPRISONMENT OF MASTERS OR CREW. STATES, ACTING THROUGH THE ORGANIZATION, SHALL AGREE ON EFFECTIVE MEASURES FOR ENFORCEMENT OF AGREED REGULATIONS IN AREAS BEYOND (200 MILES). STATES SHALL ALSO ENDEAVOR TO AGREE, THROUGH THE ORGANIZATION, ON A UNIFORM SYSTEM OF PENALTIES FOR VIOLATIONS OF AGREED CONSERVATION AND OTHER REGULATIONS.

6) THE REGULATIONS OF COASTAL AND FLAG STATES PURSUANT TO PARAGRAPH 1 OF THIS ARTICLE SHALL BE IN CONFORMITY WITH THE REGULATIONS AND MEASURES TO BE AGREED PURSUANT TO THIS ARTICLE.

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7) NOTHING IN THIS ARTICLE SHALL PREVENT A COASTAL STATE, OR STATES ACTING THROUGH THE ORGANIZATION, AS APPROPRIATE, FROM PROHIBITING THE EXPLOITATION OF MARINE MAMMALS.

8) IF THE STATES CONCERNED ARE UNABLE TO AGREE ON ANY OF THE MATTERS SPECIFIED IN THIS ARTICLE, ANY STATE MEMBER OF THE ORGANIZATION MAY REQUEST, ON AN URGENT BASIS, PENDING AGREEMENT, THE ESTABLISHMENT OF MEASURES APPLYING THE PROVISIONS OF THIS ARTICLE PURSUANT TO THE DISPUTE SETTLEMENT PROCEDURES SPECIFIED IN CHAPTER BEGIN UNDER LINE END UNDERLINE OF THIS CONVENTION. DISPUTES UNDER THIS ARTICLE SHALL ALSO BE REFERRED TO SUCH PROCEDURES.

IT IS UNDERSTOOD THAT THIS ARTICLE CONCERNS ONLY THE REGULATION OF FISHING FOR TUNA AND CERTAIN OTHER SPECIES AS PART OF A SATISFACTORY COMPREHENSIVE LAW OF THE SEA TREATY AND IS WITHOUT PREJUDICE TO ANY OTHER RIGHTS OR POSITIONS. IT IS ALSO UNDERSTOOD THAT THE STATES CONSIDERING THIS ARTICLE WILL CONSULT WITH OTHER CONCERNED STATES WITH A VIEW TO REACHING AN UNDERSTANDING AT AN EARLY TIME AMONG CONCERNED STATES.

ANNEX A

1. ALBACORE TUNA
2. BLUEFIN TUNA
3. BIGEYE TUNA

4. SIKPJACK TUNA

5. YELLOWFIN TUNA

6. POMFRETS

7. MARLIN

8. SAILFISHES

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9. SWORDFISH

10. SAURIES

11. DOLPHIN (FISH)

12. CETACEANS (WHALES AND PORPOISES)

END TEXT.

3. COMMENT: INITIAL MEETING WITH VALDEZ AND AYALA WENT WELL AND U.S. PROPOSAL SEEMS TO HAVE PROVIDED BASIS FOR DISCUSSION. WE WILL NOT REALLY KNOW HOW CLOSE TWO SIDES ARE UNTIL DETAILED ECUADOREAN REACTION ON WEDNESDAY. VALDEZ POINT ABOUT DIFFERENCES BETWEEN SOVEREIGNTY AND SOVEREIGN RIGHTS CAN PROBABLY BE MET BY AGREEING TO DISAGREE ON POINT. TREND IN EVENSEN GROUP IS TOWARD USE OF TERM "SOVEREIGN RIGHTS" RATHER THAN "SOVEREIGNTY" AND ON THIS ISSUE ECUADOREAN VIEW WILL NOT PREVAIL AT CONFERENCE. AS SUCH THERE SEEMS NO POINT IN PRESSING ECUADOREANS TO DROP THEIR JURIDICAL POSITION IF THEY WILL AGREE TO DISAGREE ON THIS POINT.

BREWSTER

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TUNA, NEGOTIATIONS, FISHING DISPUTES
Control Number: n/a
Copy: SINGLE
Draft Date: 25 FEB 1975
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975QUITO01344
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750066-1126
From: QUITO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750215/aaaaamwb.tel
Line Count: 261
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: SECRET
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: STADIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 25 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <25 JUN 2003 by MartinML>; APPROVED <26 JUN 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-ECUADOREAN DISCUSSIONS ON LOS AND THE TUNA DISPUTE
TAGS: PLOS, EFIS, PFOR, EC, US, (MOORE, JOHN N), (CLINGAN, TOM), (BREWSTER, ROBERT C), (NEGROPONTE, JOHN), (AYALA, JOSE)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006